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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,097	01/03/2005	Jerome Couvreur	2.S649.12US.424	9148
24955	7590	06/27/2006	EXAMINER	
ROGITZ & ASSOCIATES 750 B STREET SUITE 3120 SAN DIEGO, CA 92101			FISHMAN, MARINA	
			ART UNIT	PAPER NUMBER
			2832	

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/520,097	COUVREUR ET AL.	
	Examiner	Art Unit	
	Marina Fishman	2832	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-8 is/are rejected.
- 7) ☐ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>01/03/2005</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***General status***

1. This is a First Action on the Merits. Claims 1 - 8 are pending in the case and are being examined.

### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

3. The disclosure is objected to because of the following informalities: page 1, line 8 and page 5 lines 12 - 15 refer to claims 1 - 7, any reference to the claims should be deleted.

Applicant is required to review all specification and make necessary corrections.

### ***Information Disclosure Statement***

4. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Applicant has referenced EP 0 936 342, (the specification page 1, line 17) however, this reference has not been cited on PTO-Form 1449.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 3 – 5 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 3, it is not clear what is meant by “making it possible to permanently divert the crank pin”.

In Claim 4, it is not clear what is meant by “the means allowing the crank pin to be permanently diverted from certain tracks”.

In Claim 5, it is not clear what is meant by “tab is articulated about an axe parallel to the bottom”.

In Claim 7, it is not clear what is meant by “slider comprises T-grooves”. Figure 12, does disclose track 62 in the slider for pin 70, which can be taken as T-groove, but this feature is simply described as “track” and not “T-groove”.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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8. Claims 1 – 3 and 6 – 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Menetrier et al. [US 6,392,374].

Regarding Claims 1, 2 and 8, Menetrier et al. disclose a device for manual control of the position of switching means [12] having

- two extreme positions A and C [Figure 2, contacts P1, N connected, motor ON, forward direction; and P2, N , motor ON, reverse direction] and intermediate position B [Contacts not connected, motor OFF] , provided with a crank [where pin 16 is connected to motor sleeve 3, not shown] and with a crank pin [16] and controlling the electrical powering of a motor for operating a closure, privacy or sun-protection element, which device comprises a slider [13, 14] that can move in translation, has a rest position and is provided with tracks [15] in which the crank pin (16) is displaced, and wherein,
- when the slider is displaced toward its rest position, the tracks allow the crank pin to be guided toward three zones (a, b and of the slider which its position is stable and which correspond to the three positions of the switching means.

It is noted that there are two switches 12 [column 3, lines 32-35], only one of which is shown, the switches operate the motor in forward and reverse directions [ Figure 2].

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Regarding Claims 3 and 6, the slider has one means tracks [15a, 15b, 15c] to divert the crank pin [16], which comprises plurality of levels. For Claim 7, the groove [15] of the slider is taken as T-groove.

***Allowable Subject Matter***

9. Claims 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure Kawase et al. [US 4,877,931] discloses switch with a cam groove. Applicant also should consider these references in response to this office action. Should issue arise concerning the rejection presented above, these references may be relied upon in a subsequent action to support the lack of novelty or obviousness of claimed subject matter to one of ordinary skill in the art.


11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Fishman whose telephone number is 571-272-1991. The examiner can normally be reached on 7-5 M-T.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Marina Fishman  
June 19, 2006



ELVIN ENAD  
SUPERVISORY PATENT EXAMINER  
6/20/06